



Reprinted
February 26, 2002

ENGROSSED SENATE BILL No. 461

DIGEST OF SB 461 (Updated February 25, 2002 5:33 PM - DI 84)

Citations Affected: IC 13-11; IC 13-18; IC 13-20; IC 16-18; IC 16-19; noncode.

Synopsis: With respect to onsite residential sewage discharging disposal systems installed to repair failed septic systems: (1) allows the local health department to issue operating permits under certain circumstances; (2) directs the state department of health (DOH) to take action to allow for the issuance of operational permits in the county; (3) directs the department of environmental management to apply for a general permit from the United States Environmental Protection Agency covering the point source discharge from onsite residential sewage discharging disposal systems in the county; and (4) directs DOH to take action to develop new residential septic system technologies. Requires a separation of at least one mile between a landfill and a public school classroom building.

Effective: Upon passage.

Long, Wyss, Meeks C

(HOUSE SPONSORS — HERRELL, RIPLEY, GIAQUINTA, BORROR)

January 14, 2002, read first time and referred to Committee on Environmental Affairs.
January 29, 2002, amended, reported favorably — Do Pass.
February 1, 2002, read second time, amended, ordered engrossed.
February 4, 2002, engrossed.
February 5, 2002, read third time, passed. Yeas 46, nays 2.

HOUSE ACTION

February 11, 2002, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.
February 21, 2002, amended, reported — Do Pass.
February 25, 2002, read second time, amended, ordered engrossed.

ES 461—LS 7180/DI 52+



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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

ENGROSSED SENATE BILL No. 461

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-11-2-144.7 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 144.7. For purposes of**
4 **IC 13-18-12, "onsite residential sewage discharging disposal**
5 **system" means a sewage disposal system that:**
6 **(1) is located on a site with and serves a one (1) or two (2)**
7 **family residence; and**
8 **(2) discharges effluent offsite.**
9 SECTION 2. IC 13-11-2-199.5, AS ADDED BY P.L.193-2001,
10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]: Sec. 199.5. "Septic tank soil absorption system",
12 for purposes of **IC 13-18-12 and** IC 13-26-5-2.5, means pipes laid in
13 a system of trenches or elevated beds, into which the effluent from the
14 septic tank is discharged for soil absorption, or similar structures.
15 SECTION 3. IC 13-11-2-233.5 IS ADDED TO THE INDIANA
16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
17 [EFFECTIVE UPON PASSAGE]: **Sec. 233.5. For purposes of**

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1 IC 13-20-2-9, "tract" has the meaning set forth in IC 6-1.1-1-22.5.

2 SECTION 4. IC 13-18-12-9 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 9. (a) This section applies only in a county
5 having a population of more than three hundred thousand
6 (300,000) but less than four hundred thousand (400,000).

7 (b) Except as provided in subsection (c), the point source
8 discharge of sewage, treated or untreated, from a dwelling or its
9 associated residential sewage disposal system to waters is
10 prohibited.

11 (c) The point source discharge of treated sewage from an onsite
12 residential sewage discharging disposal system to waters is
13 permitted if:

- 14 (1) the local health department for the jurisdiction in which
15 the system is located issues an operating permit for the system
16 under subsection (d); and
- 17 (2) the discharge is authorized under a general permit issued
18 under 40 CFR 122.28.

19 (d) The local health department for the jurisdiction in which the
20 system is located may issue an operating permit for an onsite
21 residential sewage discharging disposal system if the system is
22 installed to repair a failed sewage disposal system and if:

- 23 (1) the local health department establishes:
 - 24 (A) maintenance requirements; and
 - 25 (B) a maintenance education program;
- 26 for onsite residential sewage discharging disposal systems in
27 the jurisdiction;
- 28 (2) the local health department adopts a local ordinance for
29 monitoring onsite residential sewage discharging disposal
30 systems in the jurisdiction, including fines or penalties, or
31 both, for noncompliance, to ensure that:
 - 32 (A) required maintenance is performed on the systems;
 - 33 and
 - 34 (B) the systems do not discharge effluent that violates
35 water quality standards;
- 36 (3) the local health department certifies, with respect to the
37 system for which the permit is issued, that:
 - 38 (A) the system is capable of operating properly;
 - 39 (B) the system does not discharge effluent that violates
40 water quality standards;
 - 41 (C) an acceptable septic tank soil absorption system cannot
42 be located on the property served by the system because of:



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- (i) soil characteristics;
- (ii) size; or
- (iii) topographical conditions;

of the property;

(D) the system:

- (i) was properly installed by a qualified installer; and
- (ii) provides the best available technology for residential discharging onsite sewage disposal systems; and

(E) the local health department has:

- (i) investigated all technologies available for repair of the failed sewage disposal system other than the use of an onsite residential sewage discharging disposal system; and
- (ii) determined that an onsite residential sewage discharging disposal system is the only possible technology that can be used to effect a repair of the failed sewage disposal system without causing unreasonable economic hardship to the system owner; and

(4) the system for which the permit is issued cannot be connected to a sanitary sewer because:

(A) unreasonable economic hardship would result to the system owner because of:

- (i) the connection requirements of the sanitary sewer operator; or
- (ii) the distance to the sanitary sewer; or

(B) the sanitary sewer operator refuses connection.

SECTION 5. IC 13-20-2-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) This section applies to a landfill for which an application for an original permit for construction or operation is:

- (1) filed after February 28, 2002;
- (2) filed before March 1, 2002, but not granted or denied by the commissioner before March 1, 2002; or
- (3) filed and granted by the commissioner before March 1, 2002, but for which an appeal of the commissioner's action in granting the permit is pending on March 1, 2002.

(b) The solid waste boundary of a landfill may not be located within one (1) mile of a public school classroom building that is served by a well as the primary source of drinking water. The measurement required by this subsection is made from the point on



the building that is nearest to the solid waste boundary of the landfill.

(c) A public school classroom building that is served by a well as the primary source of drinking water may not be constructed within one (1) mile of the property line of a contiguous tract on which a landfill is located. The measurement required by this subsection is made from the point on the school building that is nearest to the property line of the landfill tract.

(d) The commissioner shall deny an application for an original permit for the construction or operation of a landfill if the commissioner finds that the proposed landfill does not comply with the requirements of this section.

(e) The solid waste management board may adopt rules under IC 4-22-2 to administer this section.

SECTION 6. IC 16-18-2-263.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 263.5. For purposes of IC 16-19-3, "onsite residential sewage discharging disposal system" means a sewage disposal system that:

- (1) is located on a site with and serves a one (1) or two (2) family residence; and
- (2) discharges effluent offsite.

SECTION 7. IC 16-19-3-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) The state department of health shall:

- (1) study new technologies for residential septic systems that will perform satisfactorily as alternatives to currently operating septic systems that do not perform satisfactorily because of:

- (A) soil characteristics;
- (B) lot sizes;
- (C) topographical conditions; or
- (D) high water tables; and

- (2) take all actions necessary to develop plans and specifications for residential septic systems under the new technologies described in subdivision (1).

(b) The executive board shall adopt reasonable rules under IC 4-22-2 to:

- (1) promulgate the plans and specifications developed under subsection (a);
- (2) promulgate plans and specifications for residential



discharging onsite sewage disposal systems; and

(3) allow for the issuance of operating permits for:

(A) residential septic systems that are installed in compliance with the plans and specifications promulgated under subdivision (1); and

(B) onsite residential sewage discharging disposal systems in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000) that:

(i) are installed in compliance with the plans and specifications promulgated under subdivision (2); and

(ii) comply with IC 13-18-12-9.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) For purposes of this SECTION:

(1) "onsite residential sewage discharging disposal system" has the meaning set forth in IC 13-11-2-144.7; and

(2) "waters" has the meaning set forth in IC 13-11-2-265.

(b) The department of environmental management:

(1) shall take all actions necessary to apply for and obtain from the United States Environmental Protection Agency a general permit under 40 CFR 122.28 for a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000) to cover the point source discharge to waters of sewage, treated or untreated, from an onsite residential sewage discharging disposal system installed to repair a failed sewage disposal system;

(2) is authorized to take all actions referred to in subdivision (1);

(3) shall take the actions referred to in subdivision (1) in an expeditious manner calculated to obtain the general permit as soon as possible; and

(4) shall report to the environmental quality service council before:

(A) August 1, 2002; and

(B) October 1, 2002;

the progress in obtaining the general permit.

(c) The state department of health and the executive board of the state department of health shall:

(1) take the actions referred to in IC 16-19-3-27, as added by this act, in an expeditious manner calculated to result in the development of plans and specifications and the adoption of

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1 rules as soon as possible; and
2 (2) report to the environmental quality service council before:
3 (A) August 1, 2002; and
4 (B) October 1, 2002;
5 the progress in developing plans and specifications and
6 adopting rules.
7 (d) This SECTION expires January 1, 2004.
8 SECTION 9. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 461, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 17, delete "Except as provided in subsection (b)," and insert **"This section applies only in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000)."**

(b) Except as provided in subsection (c),"

Page 2, line 4, delete "(b)" and insert **"(c)"**.

Page 2, line 9, delete "(c);" and insert **"(d);" "**

Page 2, line 12, delete "(c)" and insert **"(d)"**.

Page 2, line 14, after "system" insert **"if the system is installed to repair a failed sewage disposal system and"**.

Page 2, line 29, delete "system:" and insert **"system is capable of operating properly;"**.

Page 2, delete lines 30 through 31.

Page 2, line 39, delete "and".

Page 3, between lines 1 and 2, begin a new line double block indented and insert:

"(E) the local health department has:

(i) investigated all technologies available for repair of the failed sewage disposal system other than the use of an onsite residential sewage discharging disposal system; and

(ii) determined that an onsite residential sewage discharging disposal system is the only possible technology that can be used to effect a repair of the failed sewage disposal system without causing unreasonable economic hardship to the system owner; and"

Page 4, line 1, after "systems" insert **"in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000)"**.

Page 4, line 14, delete "the state" and insert **"a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000)"**.

Page 4, line 15, after "discharge" insert **"to waters"**.

Page 4, line 16, delete "to" and insert **"installed to repair a failed sewage disposal system;"**.

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Page 4, delete line 17.

and when so amended that said bill do pass.

(Reference is to SB 461 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 8, Nays 1.

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SENATE MOTION

Mr. President: I move that Senate Bill 461 be amended to read as follows:

Page 2, line 24, delete "establishes a system" and insert "**adopts a local ordinance**".

Page 2, line 26, after "jurisdiction" insert ", **including fines or penalties, or both, for noncompliance,**".

(Reference is to SB 461 as printed January 30, 2002.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred Senate Bill 461, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 7, delete "sewage, treated or untreated," and insert "**treated sewage**".

and when so amended that said bill do pass.

(Reference is to SB 461 as reprinted February 4, 2002.)

LYTLE, Chair

Committee Vote: yeas 10, nays 3.

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HOUSE MOTION

Mr. Speaker: I move that Senate Bill 461 be amended to read as follows:

Page 1, between lines 14 and 15, begin a new paragraph and insert:
"SECTION 3. IC 13-11-2-233.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 233.5. For purposes of IC 13-20-2-9, "tract" has the meaning set forth in IC 6-1.1-1-22.5."

Page 3, between lines 23 and 24, begin a new paragraph and insert:
"SECTION 5. IC 13-20-2-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) This section applies to a landfill for which an application for an original permit for construction or operation is:

- (1) filed after February 28, 2002;**
- (2) filed before March 1, 2002, but not granted or denied by the commissioner before March 1, 2002; or**
- (3) filed and granted by the commissioner before March 1, 2002, but for which an appeal of the commissioner's action in granting the permit is pending on March 1, 2002.**
- (b) The solid waste boundary of a landfill may not be located within one (1) mile of a public school classroom building that is served by a well as the primary source of drinking water. The measurement required by this subsection is made from the point on the building that is nearest to the solid waste boundary of the landfill.**
- (c) A public school classroom building that is served by a well as the primary source of drinking water may not be constructed within one (1) mile of the property line of a contiguous tract on which a landfill is located. The measurement required by this subsection is made from the point on the school building that is nearest to the property line of the landfill tract.**
- (d) The commissioner shall deny an application for an original permit for the construction or operation of a landfill if the commissioner finds that the proposed landfill does not comply with the requirements of this section.**
- (e) The solid waste management board may adopt rules under IC 4-22-2 to administer this section."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 461 as printed February 22, 2002.)

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